AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1 – 42. (CANCELED)

43. (CURRENTLY AMENDED) A method for preparing a synthetic promoter which comprises the steps of:

a) comparing the sequence of a template promoter with known nucleic acid sequences;

b) selecting 20 base pair to 100 base pair segments of said known nucleic acid sequences ~~similar to~~ that have between 60% and 100% homology to 20 base pair to 100 base pair segments of the template promoter sequence;

c) ~~aligning the selected segments based on homology with the template promoter to derive~~ placing said 20 base pair to 100 base pair segments in the order in which said segments occur in the template promoter to produce a first synthetic promoter having ~~between about 60% to about 90% homology with~~ at least 15% of its sequence different from that of the template promoter; and

~~d) constructing a first synthetic promoter; and~~

~~e)~~ d) testing the first synthetic promoter for activity.

44. (CURRENTLY AMENDED) The method of claim 43, which further comprises the steps of:

~~f)~~ e) modifying the sequence of the first synthetic promoter which does not have maintained or improved activity compared to the template promoter to produce a second synthetic promoter; and

~~g)~~ f) testing the synthetic promoter for activity.

45. (CURRENTLY AMENDED) The method of claim 44, wherein steps ~~(f) and (g)~~ (e) and (f) are repeated one or more times until a synthetic promoter is produced which has maintained or improved activity compared to the template promoter.

46 - 48. (CANCELED)

49. (NEW) The method of claim 43 wherein said known nucleic acid sequences are selected from a GenBank database or an equivalent database.

50. (NEW) The method of claim 43 wherein said first synthetic promoter has between 15% and 20% of its sequence different from that of the template promoter.

51. (NEW) The method of claim 43 wherein said first synthetic promoter has between 20% and 25% of its sequence different from that of the template promoter.

52. (NEW) The method of claim 43 wherein said first synthetic promoter has between 25% and 30% of its sequence different from that of the template promoter.